

United States Supreme Court
Dismisses Habeas Corpus
Writ Granted in New Hamp-
shire and Slayer to Go Back.

HOLDS TRIAL OPTIONAL WITH STATE OFFICIALS

... may be tried for Conspiracy or be Placed in Mat-teawan Peremptorily Accord-ing to Justice's Opinion.

WASHINGTON, Dec. 21.—Harry K. Thaw's long fight to avoid extradition to New York from New Hampshire, where he is now in custody, has ended in a failure. The supreme court of the United States decided today that the extradition proceedings which New York instituted to bring about his return, are valid and that legal proceedings in the federal courts to prevent his return must no longer stand in the way.

The writ of habeas corpus granted him by Federal Judge Aldrich of New

Effective in 60 Days.
The mandate of the court becomes effective at the end of 60 days. The New York authorities may either put him on trial for conspiracy with

ers to escape from the Matteawan insane asylum or they may peremptorily place him in the asylum itself. Under the decision of the court this choice is open to them.

In his opinion Justice Holmes flatly decided that no constitutional bar could be raised to prevent a person accused in one state of conspiracy from taking refuge in another state under the constitutional cloak of a habeas corpus proceeding. The justice first took up the question of the

"We do not regard it as open to debate that the withdrawal of confidence of a man from an insane asylum to which he has been committed as Thaw was, did tend to obstruct the due administration of the law. At least, the New York courts may so decide. Therefore the indictment charges a crime. If there is any remote defect in the earlier proceedings by which Thaw was committed which are barred from intimating, this is not the time and place for that."

Thaw is a Fugitive.

"If conspiracy constituted a crime there is no doubt that Thaw is a fugitive from justice. He was a party to the crime in New York and afterwards left the state. It long has been established that for purposes of

The most serious argument for Shaw was that if he was insane when he contrived his escape he could not be guilty of crime, said Justice Holmes, while if he were not insane he was entitled to be discharged, and

Justice Holmes said that the reply to this argument was that "this is not Thaw's trial."

corpus," said Justice Holmes, "the purpose of the writ is not to substitute the judgment of another tribunal upon the facts, or the law of the matter to be tried. The law says nothing about habeas corpus in this connection but peremptorily requires upon proper demand, the person charged shall be delivered up to the state having jurisdiction of him."

Cannot Attack Indictment.
 "The technical sufficiency of the indictment is not open. And even if it be true that the argument stated offers a nice question it is the question

to the law of necessity which the New York courts must decide. The statute that declares an act done by a maniac not a crime adds that a person is not excused from criminal liability except upon proof at that time that he was laboring under such defective reason as,

"1. • Not to know the nature and

2. Not to know the act was wrong. The inmates of lunatic asylums are largely governed, it has been remarked, by appeal to the same motives that govern other men, and it well might be that a man who was insane and dangerous, nevertheless in many directions understood the na-

re and quality of his acts as well, and as open to be affected by the modes of the criminal law as anybody else. How far such considerations shall be taken into account it is for the New York courts to decide, and it is for a New York jury to determine whether at the moment of conspiracy, Thaw was insane. In such

Justice Holmes concluded that the question of insanity therefore was strictly one to be decided by the courts of New York. The decision of the federal court of New Hampshire was reversed with costs to be paid

RESUME LUMBER PURCHASES.
TACOMA, Wash., Dec. 21.—Purchases of lumber, postponed by the failure to get an increase in rates, have been resumed by railroads in this state. A campaign to repeal the full law has been started.

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